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EXAMINER	
KARMIS, STEFANOS	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte LOUIS J. PINGA and
GEORGE P. FIDAS

Appeal 2009-008214
Application 09/544,150
Technology Center 3600

Before MURRIEL E. CRAWFORD, HUBERT C. LORIN, and
BIBHU R. MOHANTY, *Administrative Patent Judges*.

LORIN, *Administrative Patent Judge*.

DECISION ON APPEAL[1]

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[1] The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the "MAIL DATE" (paper delivery mode) or the "NOTIFICATION DATE" (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

STATEMENT OF THE CASE

Louis J. Pinga and George P. Fidas (Appellants) seek our review under 35 U.S.C. § 134 (2002) of the Examiner's final decision rejecting claims 1-23. We have jurisdiction over the appeal under 35 U.S.C. § 6(b) (2002).

We AFFIRM.

BACKGROUND

Appellants' invention is directed to "business method for casinos to attract patrons and retain their loyalty" (Specification 1:4-5).

Claim 1 is illustrative:

> 1. A computer implemented method for a casino patron betting, rating, and investment program, said method comprising the steps of:
> establishing a casino investment account via a computer processor, said investment account for the benefit of a casino patron;
> making a deposit into said casino investment account;
> associating said casino investment account with a financial investment account of said casino patron;
> redeeming said deposits from said casino investment account; and
> transferring said redeemed deposits into said financial investment account.

The Examiner relies on the following prior art reference as evidence of unpatentability:

Hardesty	US 6,105,865	Aug. 22, 2000
Foodman	US 6,547,131 B1	Apr. 15, 2003

Appellants appeal the following rejection:

1. Claims 1-23 under 35 U.S.C. § 103(a) as unpatentable over Foodman and Hardesty.

ISSUE

The issue is whether the Examiner has presented a prima facie case of obviousness and whether the Appellants have shown error in the establishment of the prima facie case of obviousness.

FACTUAL FINDINGS

We adopt all of the Examiner's findings as our own. Answer 3-6.

ANALYSIS

The Appellants argued claims 1-23 as a group (Br. 5-8). We select claim 1 as the representative claim for this group, and the remaining claims 2-27 stand or fall with claim 1. 37 C.F.R. § 41.37(c)(1)(vii) (2007).

The Examiner addressed the scope and content of Foodman and Hardesty, discussed the differences between the claimed subject matter and that which is disclosed in Foodman and Hardesty, and provided an apparent reasoning with logical underpinning in explaining why one of ordinary skill in the art at the time of the invention would have combined Foodman and Hardesty and be led to the claimed subject matter as a whole given what they disclose. Accordingly, it appears that the Examiner has met the initial burden of establishing a prima facie case of obviousness.

"On appeal to the Board, an applicant can overcome a rejection [under § 103] by showing insufficient evidence of prima facie obviousness or by rebutting the prima facie case with evidence of secondary indicia of

nonobviousness." *In re Rouffet*, 149 F.3d 1350, 1355 (Fed. Cir. 1998). In this case, however, the Appellants challenge the prima facie case with arguments that are not commensurate in scope with what is claimed.

The Appellants challenge the rejection on the ground that the Examiner has not appreciated the invention claimed. For example, the Appellants argue that the

> combination [Foodman and Hardesty] still does not disclose the present invention claimed. The present invention is not related to or concerned with where the original game play funds come from. The concept is directed at taking a designated portion of the funds wagered and winnings and segregating them into a reserve account for the benefit of the patron and then transferring those funds into an investment vehicle on behalf of the patron.

Br. 7. But claim 1 does not limit the claimed method such that a designated portion of funds wagered and winnings are taken and then segregated into a reserve account for the benefit of the patron and then transferring those funds into an investment vehicle on behalf of the patron. All that claim 1 calls for is making a deposit in a casino investment account established for the benefit of the casino patron, redeeming the deposit, and transferring the redeemed deposit into a financial investment account associated with the casino investment account. Because the Appellants are arguing distinctions over the prior art combination which are not present in the claim, the argument is unpersuasive in challenging the prima facie case of obviousness.

We have reviewed the rest of the Brief and find the remaining arguments similarly not commensurate in scope with what is claimed. "Many of appellant's arguments fail from the outset because, . . . they are not based on limitations appearing in the claims . . . ." *In re Self*, 671 F.2d 1344, 1348 (CCPA 1982).

Accordingly, we do not find that the Appellants have shown error in the prima facie case of obviousness.

DECISION

We affirm the Examiner's 35 U.S.C. § 103(a) rejection of claims 1-23 as unpatentable over Foodman and Hardesty.

TIME PERIOD

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. § 1.136(a)(1)(iv) (2007).

ORDER

AFFIRMED

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